

MINUTE ITEM

18. (SALE OF VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 4972, SACRAMENTO LAND DISTRICT, SANTA CLARA COUNTY, H. J. NOREN - S.W.O. 5698.)

Following presentation of Calendar Item 17 attached, it was reported that Mr. Ray Labrucherie who had protested the proposed sale and his attorney had been informed of the recommendation of the staff and of the date, place and time when it would be presented to the Commission. In addition, it was reported that the office of the Attorney General had advised that the Commission would not have a right to grant a right-of-way easement over the land to Mr. Labrucherie prior to sale of the land.

Lieutenant Governor Powers stated that if it were possible under the law for the Commission to grant such an easement to Mr. Labrucherie he would be in favor of doing so, but that inasmuch as this could not be done legally, there appeared to be no alternative to adopting the recommendation of the staff.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION DETERMINES THAT IT IS TO THE ADVANTAGE OF THE STATE TO SELECT THE FEDERAL LAND EMBRACED IN LOTS 2, 3 AND 4 OF SECTION 31, T. 6 S., R. 4 E., NW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 12, T. 7 S., R. 4 E., AND SW $\frac{1}{4}$ OF NW $\frac{1}{4}$ OF SECTION 32, T. 7 S., R. 5 E., M.D.M., CONTAINING 280.45 ACRES IN SANTA CLARA COUNTY; THE COMMISSION FINDS THAT SAID LAND IS NOT SUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION; THE COMMISSION APPROVES THE SELECTION AND AUTHORIZES THE SALE OF SAID LAND, FOR CASH, TO H. J. NOREN, AT THE APPRAISED PRICE OF \$3,365.40, SUBJECT TO ALL STATUTORY RESERVATIONS INCLUDING MINERALS.

Attachment

Calendar Item 17 (2 pages)

CALENDAR ITEM

SALE OF VACANT FEDERAL LAND

17.

(SALE OF VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 4972, SACRAMENTO LAND DISTRICT, SANTA CLARA COUNTY, H. J. NOREN - S.W.O. 5698.)

An offer has been received from H. J. Noren of Mt. Hamilton, California, to purchase Lots 2, 3 and 4 of Section 31, T. 6 S., R. 4 E., N $\frac{1}{2}$ of SW $\frac{1}{4}$ of Section 12, T. 7 S., R. 4 E., and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32, T. 7 S., R. 5 E., M.D.M., containing 280.45 acres in Santa Clara County. The applicant made an offer of \$1,402.25, or \$5 per acre.

The Assessor of Santa Clara County has assessed contiguous land at \$3 per acre.

Inspections and appraisal by a member of the Commission's staff on February 28, 1956 and May 22, 1957 establish the value of the subject land at an average of \$12 per acre, or a total value of \$3,365.40. The applicant posted the necessary amount to meet this value. Said appraisal also indicates that the land is not suitable for cultivation without artificial irrigation.

The State's application to select the land has been accepted by the Bureau of Land Management and the land was listed (conveyed) to the State on June 15, 1956.

The selection of the subject land is considered to be to the advantage of the State in that the selection thereof will assist the State in satisfying the loss to the School Land Grant, and in addition, after sale, will place the land on the tax rolls of the county in which it is situated.

By letter dated May 11, 1956, Mr. Ray Labrucherie protested to the State Lands Division the confirmation of acquisition and subsequent sale by the State of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32, T. 7 S., R. 5 E., M.D.M. The protestant alleged that the land does not lie within one county only, but on the contrary lies both in Santa Clara and Stanislaus Counties. Furthermore, it was pointed out that Mr. Labrucherie and others enjoy an easement for private right-of-way through said land which can be interfered with to their detriment. The rules and regulations of the State Lands Commission provide that an application shall not be accepted for lands in more than one county. The protestant was subsequently advised that where a parcel is divided by a county boundary, it is customary, from a practical standpoint, to accept an application where the greater portion of the land falls within one county, without requiring an application for the balance of the legal subdivision falling within an adjoining county. It is impossible to accurately describe a county boundary line traversing a parcel of land where it has been officially designated as following a ridge, etc., and where no courses and distances are available from which a legal description may be developed to properly describe the portions of the subdivision situated within each county.

SALE OF VACANT FEDERAL LAND 17. (CONTD.)

With respect to the easement and right-of-way, Mr. Labrucherie was advised that such a matter does not come within State jurisdiction, but is a matter to be resolved between himself and the Federal Government or the State's patentee. Since at the time of the aforesaid protest the lands were under the jurisdiction of the United States, the protestant was referred to the pertinent rules of practice of the United States Bureau of Land Management relative to the filing of protests with that agency.

Mr. Labrucherie requested that he be advised when the sale of this land was to be considered by the Commission; such notice has been given. The State's applicant, Mr. H. J. Noren, has also been notified.

IT IS RECOMMENDED THAT THE COMMISSION DETERMINE THAT IT IS TO THE ADVANTAGE OF THE STATE TO SELECT THE FEDERAL LAND EMBRACED IN LOTS 2, 3 AND 4 OF SECTION 31, T. 6 S., R. 4 E., $N\frac{1}{2}$ OF $SW\frac{1}{4}$ OF SECTION 12, T. 7 S., R. 4 E., AND $SW\frac{1}{4}$ OF $NW\frac{1}{4}$ OF SECTION 32, T. 7 S., R. 5 E., M.D.M., CONTAINING 280.45 ACRES IN SANTA CLARA COUNTY; THAT THE COMMISSION FIND THAT SAID LAND IS NOT SUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION; THAT THE COMMISSION APPROVE THE SELECTION AND AUTHORIZE THE SALE OF SAID LAND, FOR CASH, TO H. J. NOREN, AT THE APPRAISED PRICE OF \$3,365.40, SUBJECT TO ALL STATUTORY RESERVATIONS INCLUDING MINERALS.